

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Bell et al.

SERIAL NO.: 09/937,542 GROUP ART UNIT: 3731

FILED: September 26, 2001 EXAMINER: Victor X. Nguyen

FOR: SCALPEL ASSEMBLY

Assistant Commissioner for  
Patents  
Washington, D.C. 20231

ATTORNEY DOCKET NO.: 40198/181160

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I hereby certify that this correspondence is being transmitted via  
facsimile to Victor X. Nguyen, Examiner, 703-305-3590 United States  
Patent and Trademark Office, on June 5, 2003.  
Susie Haugen

DATE: June 5, 2003

PETITION TO VACATE OFFICE ACTION

Sir/Madam:

Responsive to the Office Action dated March 10, 2003, the attorney for applicants respectfully requests that the Examiner vacate the Office Action and issue a new first action.

This application is a national phase application of PCT/IB00/00426. The Notice of Acceptance of Application under 35 U.S.C. § 371 and 37 C.F.R. 1.494 or 1.495 indicates that the IPE Report was received by the U.S.P.T.O. However, the Office Action dated March 10, 2003 was based on the original claims as filed, rather than the claims as amended under Article 34. Article 34 Amendments must be considered by the U.S. patent office during the national phase. A copy of the IPER, including annexes, was faxed to Paul Bell, PCT Special Examiner, on April 3, 2003.

Therefore, applicants' attorney respectfully requests that the Examiner vacate the Office Action dated March 10, 2003 and issue a new first action based on the amended claims.

Please charge any additional fees or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,



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June 5, 2003

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